

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

Court Minutes and Order

HEARING DATE: March 18, 2021
JUDGE: Brett H. Ludwig
CASE NO.: 20-cv-0564-bhl
CASE NAME: Shultz et al v. Cardinal Health Inc et al
MATTER: Status Conference and Argument on Motion to Dismiss
APPEARANCES: Ryan J Duplechin, Attorney for Plaintiff
Wesley Chadwick Cook, Attorney for Plaintiff
Keith R Stachowiak, Attorney for Plaintiff
Sherrie Armstrong Davis, Attorney for Defendant
Andrew D Kaplan, Attorney for Defendant
Richard T Orton, Attorney for Defendant
Stephen C Carter, Attorney for Defendant (OSARTIS GmbH)
TIME: 10:11 a.m. – 11:14 a.m.
COURTROOM DEPUTY: Melissa P.

AUDIO OF THIS HEARING IS AT ECF NO. 53

Counsel for the parties updated the Court on the status of the case. Defendant OSARTIS argued in favor of the motion to dismiss for lack of personal jurisdiction. Plaintiff argued against the motion. For the reasons stated on the record, the Court ordered the parties to meet and confer in an effort to stipulate to agreed-upon facts, including a copy of the distribution agreement between OSARTIS and Cardinal Health and, if possible, stipulated facts establishing the nationwide sales data of Cardinal HV. The Court will schedule a status conference after the stipulation is filed to rule on the motion to dismiss.

Counsel for Cardinal Health orally moved the Court to seal OSARTIS' supplemental memorandum in support of the motion to dismiss, (ECF No. 52), because it contains confidential information subject to the protective order. The Court found sufficient cause to seal the filing, granted the motion, and ordered OSARTIS to file a copy of the supplemental memorandum with the confidential information redacted.

Finally, defendant Cardinal Health informed the Court that the jurisdictional analysis of a cross-claim by Cardinal Health against OSARTIS may be different than the issue currently before the Court. Therefore, the Court granted Cardinal Health's motion for leave to amend their answer, (ECF No. 39), to allow them to assert cross-claims against defendant OSARTIS.

Accordingly, **IT IS HEREBY ORDERED** that the parties shall meet and confer and provide the Court with a joint stipulation by **April 19, 2021**. The stipulation should include a copy of the distribution agreement between OSARTIS and Cardinal Health. Additionally, if the parties can agree, the stipulation should include stipulated facts establishing the nationwide sales data of Cardinal HV during the relevant time period.

IT IS FURTHER ORDERED that defendant Cardinal Health's motion to amend their answer and assert cross-claims, (ECF No. 39), is **GRANTED**. The Clerk is directed to file the amended answer and asserted cross-claims, (ECF No. 39-1, at 2-35), as a separate docket entry that shall be defendant Cardinal's operative answer in this case.

IT IS FURTHER ORDERED that, for the reasons stated on the record, OSARTIS' supplemental memorandum in support of the motion to dismiss is **SEALED**. The Clerk is directed to seal the Supplemental Reply Brief filed by OSARTIS. (ECF No. 52). OSARTIS shall file a public redacted version of the memorandum by **March 24, 2021**.

Dated at Milwaukee, Wisconsin on March 18, 2021.

s/ Brett H. Ludwig

BRETT H. LUDWIG
United States District Judge